

UNITED STATES DISTRICT COURT
IN AND FOR THE WESTERN DISTRICT OF WASHINGTON
SEATTLE, WASHINGTON

SILVANA NIKAJ, and
CARNEY & MARCHI, P.S.

Petitioners,

vs.

UNITED STATES DEPARTMENT OF STATE,

Respondents.

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) NO.
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)
) COMPLAINT FOR
) DECLARATORY RELIEF
) AND INJUNCTIVE
) RELIEF

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

Plaintiff SILVANA NIKAJ, by and through her attorneys brings this action under the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), against Defendant, United States Department of State, (DOS), to compel Defendant to produce documents regarding Plaintiff and her visa application process. In support of this petition and complaint for declaratory and injunctive relief, Ms. Nikaj alleges as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

2. Venue is proper under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

PARTIES

3. Plaintiff is a native and citizen of Albania. Plaintiff sought a visa for travel to the United States on June 11, 2014. The request was denied. Plaintiff then sought a copy of her file by filing a FOIA request with the Department of State. The FOIA request was filed by her attorneys, Carney & Marchi, P.S.

4. Respondent, United States Department of State had jurisdiction over the Plaintiff's application for a Visa to the United States in 2014.

EXHAUSTION OF REMEDIES

5. Ms. Nikaj has exhausted his administrative remedies to the extent required by law, and her only remedy is by way of this judicial action.

STATEMENT OF FACTS

6. On May 20, 2015, the Plaintiff filed as Freedom of Information Request (FOIA) request with the National Records Center. The file was then transferred to the National Visa Center.

7. On April 8, 2015, the United States Department responded seeking additional information. The Plaintiff was requested to send the additional information to the Office of Information and Program Services.

1 8. On May 27, 2015, the Plaintiff responded with the requested information. On
2 June 8, 2015, the Defendant's responded that they had no information in the Central Index
3 System.

4 9. On June 23, 2015, the Plaintiff responded with additional information providing
5 information regarding a pending visa application, WAC-05-208-51265. On June 25, 2015, the
6 Defendants through the Office of Information and Program Services faxed the plaintiff for
7 additional information.

8 10. On July 16, 2015, the Plaintiff provided the requested the information. On
9 September 30, 2015, the Defendant's responded to the Plaintiff through counsel via email that
10 the search was continuing for the requested information.

11 11. On March 8, 2016, the Defendant issued a decision regarding the request for
12 information. The Defendant indicated that there were 16 documents consisting of 37 pages
13 regarding the request. The defendant released two documents in full containing 16 pages, the
14 remaining pages were withheld pursuant to 8 U.S.C 1202(f).

15 12. On May 31, 2016, the Plaintiff filed an appeal of the decision of the Defendants
16 pursuant to USC 552(a)(6). On June 10, 2016, the Defendant acknowledge that the appeal was
17 filed and assigned Case No. F-2015-10961.

18 13. On December 16, 2016, the Defendants responded to the appeal issuing a
19 decision that the portions of two documents would continue to be withheld and that 12
20 documents would be withheld in their entirety pursuant to 8 U.S.C1202(f). This was a final
21 decision.

22 14. Plaintiff has a statutory right to the records that it seeks, and there is no legal basis
23 for Defendant's refusal to disclose them.
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1 WHEREFORE, Plaintiff requests that this Court:

2 (1) Declare that Defendant's refusal to disclose the records requested by Plaintiff is
3 unlawful;

4
5 (2) Order Defendant to make the requested records available to Plaintiff;

6
7 (3) Award Plaintiff its costs and reasonable attorneys' fees in this action as provided by 5
8 U.S.C. § 552(a)(4)(E); and

9
10 (4) Grant such other and further relief as this Court may deem just and proper.

11 Dated this 23rd day of March 2018.

12 Respectfully submitted,

13 S/Nicholas Marchi

14 Nicholas Marchi

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